Court No. 2

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

A.O. No. 373 of 2001 (Old No.516 of 1991).

1. Sri Sudhai S/o Santu,
2. Smt.Sheela W/o Santu
   both residents of village-
   Kunwanwala, P.O.Harawala, P.S.
   Doiwala, O.P.Jogiwala-District Dehradun.

..... Claimant/appellants

Versus

(1)The Secretary, State Transport
   U.P., Lucknow.
(2)The General Manager, U.P.State Road,
   Transport Corporation, 67 , Gandhi Road,
   Dehradun.
(3)Narendra Singh S/o Sri Gopal,
   R/o Village-Khurbura Mohalla,
   Dehradun.

.....Claimants/Respondents.

Sri B.P.Nautiyal, learned counsel for the claimant/appellants,
Sri A.N.Sharma, learned counsel for the respondent/U.P.S.R.T.C.

Dated: 25th Aug., 2004

Hon'ble P.C.Verma,J.
Hon'ble B.S.Verma,J.

This is an appeal under Sec. 173 of the Motor Vehicles Act, 1988 preferred by the claimants for enhancement of the amount of compensation against the judgment and award dated 05.3.1990 passed by Motor Accident Claims Tribunal/I Addl. District Judge, Dehradun in Motor Accident Claims Case No. 124 of 1986, by which the claim petition has been decreed for Rs. 36,000/- only alongwith interest against the opposite parties.

2- Brief facts giving rise to this appeal are that Ram Pal son of the claimants died on 24.12.1985, at about 3.00

P.M. in front of Local Bus Stand at Rajpur Road, while he was riding on his bicycle. He was aged about 20 years at the time of accident. He was serving as a Peon and was getting monthly salary of Rs. 600/-. It was alleged that the deceased was going from Clock tower to Rajpur Road. After the accident immediately he was taken to Hospital where he died after two hours. The accident occurred with City Bus No. UTL 6663 which was owned by Opp.party Nos. 1 & 2 and driven by Opp.party No.3. The claimants, who are dependents of the deceased, filed the claim petition for grant of compensation before the Tribunal.

3- The Opposite parties contested the claim petition by filing their joint written statement denying all the allegations of the claim petition. it was further pleaded that the deceased wanted to cross the bus from its left side and that he saw several three wheelers standing on the road and that he lost his balance and struck against the left side of the vehicle.

4- The Tribunal on the basis of evidence recorded a finding that deceased was an employed in the Hotel for the last about 4-5 years before he met with alleged accident on 24.12.1985. At the time of the death his age was 20 years. The Tribunal also held the case of the deceased can be considered parallel to a labourer and his monthly income can be fixed at Rs. 300/-. At the relevant time the minimum wages of the labour was Rs. 750/- per month as per Government notification. Since the claimants claimed the monthly income of the deceased to be Rs. 600/-, that could not have been reduced to Rs. 300/- per month. Therefore, the income of the deceased fixing the income of labour is erroneous. We fixed the income of the deceased to be Rs. 600/- per month. The deceased was serving in the Hotel. Therefore, charges of his fooding was borne by Hotel.

He was also spending a minimum amount from the wages on himself, that we assessed Rs. 200/- per month. According, the dependency comes to claimants to be Rs. 400/- per month. Then annual dependency of the claimants comes to Rs. 4,800/-. Twenty years have been taken as expected life of the claimants from the date of the statement of the claimants. The statement was made in the year 1988-89, while the alleged accident occurred on 24.12.1985. Four year should have been added on the life expectancy as determined by the Tribunal. Therefore, the life expectancy increased by four. Thus, the total Rs. 4800X24=Rs.1,15,200/-. The learned counsel for the respondents contended that the Tribunal has decreed the claim petition with interest at the rate of 12% per annum which is excessive and it may be reduced. We find force in the contention of the learned counsel for the respondents. We think it proper that in the interest of justice the rate of interest is reduced. The claimants/appellants shall be paid interest at the rate of 9% per annum.

5- The appeal is partly allowed. The claimant/appellants shall be paid Rs. 1,15,200/- (Rupees one lac fifteen thousand two hundred) only as compensation alongwith interest at the rate of 9% (nine per cent) per annum. The judgment and order under appeal dated 05.3.1990 is modified accordingly. No order as to costs.

(B.S.Verma,J.) **(P.C.Verma,J.)**

P.Singh